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Note verbale dated 22 June 2012 from the Permanent Mission of Slovenia to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Slovenia to the United Nations has the honour to submit to the Chair of the Security Council the national report of the Republic of Slovenia on the implementation of Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 22 June 2012 from the Permanent Mission of Slovenia to the United Nations addressed to the Committee

National report by the Republic of Slovenia on the implementation of Security Council resolution 1540 (2004)

I. Introduction

Slovenia would like to provide additional information on the implementation of Security Council resolution 1540 (2004) to complement its national reports and addendums of 2004, 2005 and 2008.

The proliferation of weapons of mass destruction (WMD) and their means of delivery and the risk that non-State actors, in particular terrorists, gain access to such weapons still represents a threat to international peace and security. In addition to actions at both national and regional levels, a global approach is needed. In this context, we would like to underline the need for compliance with the obligations under Security Council resolutions 1540 (2004) and 1887 (2009), and call for enhanced security of highly radioactive sources. Our work is based on three main pillars: effective multilateralism, prevention and international cooperation. In this context, we promote universal adherence to and full implementation of all treaties and conventions on non-proliferation and disarmament.

Slovenia is a member of all export control regimes except for the Missile Technology Control Regime, in which no consensus can be reached on admitting new members.

As a European Union (EU) member State, Slovenia adheres to the EU WMD strategy and directly implements the EU regulation on dual-use goods.

Since 2008, amendments to national legislation relevant for the implementation of Security Council resolution 1540 (2004) have been adopted and activities carried out since the last report. They are outlined in the following sections. These amendments also facilitated the ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism on 19 November 2009 (applicable as of 17 December 2009) and the Amendment to the Convention on the Physical Protection of Nuclear Material on 15 July 2009 (applicable as of 1 September 2009).

The Parliament adopted the new National Security Strategy of the Republic of Slovenia in April 2010, which defines illicit activities in the areas of conventional weapons, weapons of mass destruction and nuclear technology as the major threats to international peace and security and to national security. The Strategy includes the policy and measures to respond to these threats.

II. Relevant amendments to national legislation

Criminal Code

The Criminal Code (KZ-1) that entered into force in 2008 (Official Gazette of the Republic of Slovenia Nos. 55/08, 66/08-cor, 39/09, 91/11) contains terrorism-related criminal offences. Article 108 defines the criminal offence of terrorism, Article 109 the financing of terrorism, Article 110 the incitement to and public glorification of terrorist acts, and Article 111 recruitment and training for terrorism.

The general part of the Criminal Code defines aiding and abetting as the forms of participation in criminal offences (which also apply to terrorism-related offences), setting out the conditions for criminal liability and the punishment of accomplices.

According to new article 36a of the Criminal Code, which was introduced with the Act amending the Criminal Code (Official Gazette of the Republic of Slovenia No. 91/11) and entered into force on 15 May 2012, the provisions of the Criminal Code applicable to the offender will also apply to a participant who abets or aids in the commission of a criminal offence, unless otherwise provided by law.

According to article 37 of the Criminal Code, any person who intentionally abets another person in the commission of a criminal offence shall be punished as if he/she had committed it. Any person who intentionally abets another person in the commission of a criminal offence for which a sentence of three years' imprisonment, or a heavier sentence may be imposed under the statute, shall be punished for the criminal attempt, even if the commission of such an offence was not attempted.

According to article 38, paragraph 1, of the Criminal Code, any person who intentionally aids another person in the commission of a criminal offence shall be punished as if he/she had committed it, or the sentence shall be reduced, as the case may be. Paragraph 2 contains examples of what would constitute such aid.

A new article 307 of the Criminal Code, which was introduced with the Act amending the Criminal Code (Official Gazette of the Republic of Slovenia No. 91/11) and entered into force on 15 May 2012, regarding illicit production and trafficking with arms, explosives and chemical, biological, radiological and nuclear (CBRN) materials, was introduced:

> (1) Whoever unlawfully manufactures, acquires, offers, sells, barters or imports into or exports from the country firearms, chemical, biological or nuclear weapons, ammunition or explosive materials or military weapons and equipment, the trade in, the acquisition of and the possession of which is prohibited, to individuals, legal entities or entrepreneurs or is restricted, or intermediates therein, or who illegally acquires or keeps such weapons, ammunition or explosive materials, except for firearms or ammunition, for which an arms license may be issued, shall be sentenced to imprisonment of no less than six months and no more than five years.

In paragraph 3, the wording "or if the perpetrator, with a view to illicit sale, acquires or keeps firearms or ammunition, for which an arms license may be issued, or if he keeps it in large quantities or value", is added after the words "such weapons".

Paragraph 5 is changed, to read as follows:

(5) Whoever unlawfully manufactures, acquires, keeps, sells, barters, imports into or exports from the country composite or spare parts of firearms, ammunition, explosive materials, explosive devices and explosive weapons or military weapons and equipment, a substance, ingredients, programme equipment or technology, of which he is aware to be used for the manufacture or operation of the items referred to in preceding paragraphs, or intermediates therein, shall be sentenced to imprisonment of up to five years.

With article 374 of the Criminal Code KZ-1B, which took effect on 15 May 2012, a new criminal offence of "Violation of Restrictive Measures" was introduced:

(1) Whoever, contrary to restrictions as provided for in the regulations on the implementation of restrictive measures adopted on the basis of legal instruments and decisions of international organizations, or restrictions used in compliance with the legal regime of international organizations in the Republic of Slovenia that are applied directly, offers, sells, remits, transfers, exchanges, delivers, imports into or exports from, brings into a country or takes out of the country goods, technology, money or property or, in doing so, assists or enables access to such goods, technology, funds or property or their use and does not prevent it, or whoever illegally acquires or keeps such goods, technology, funds or property, thus acquiring substantial pecuniary gain, shall be punished with a prison sentence from six months to five years.

(2) Goods, technology, funds and property under the preceding paragraph shall be confiscated.

Suppression of terrorist financing

The Prevention of Money-laundering and Terrorist Financing Act was adopted in July 2007 and entered into force at the end of January 2008. The Act provides the basis for the adoption of several implementing regulations, replacing the previous Law on the Prevention of Money-laundering. The Act harmonized national legislation with the provisions of revised instruments on the prevention of money-laundering, as well as amending Slovenian legislation in accordance with the new standards on countering the financing of terrorism.

With the entry into force of the Act, the Office for Money-laundering Prevention gained competences in the detection and the prevention of financing terrorism; this enables the Office to exchange information with its foreign counterparts, also in the case of suspicion that the criminal offence of terrorist financing has been committed.

With the adoption of the Act, Directive 2005/60/ES of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money-laundering and terrorist financing was transposed into Slovenian legislation.

The Act was first amended in 2010 and then again in 2011, with the first amendment entering into force on 27 March 2010 and the second on 18 October 2011. The second amendment introduced additional countermeasures for

transactions with high-risk jurisdictions defined by the Financial Action Task Force (FATF). These include countries that are also under restrictive measures for WMD proliferation (Islamic Republic of Iran and North Korea).

Restrictive measures

Slovenia does not maintain any national lists of specific restrictive measures directed against certain persons or entities with a view to combating terrorism. The United Nations and EU lists are directly applicable.

Council Regulation (EC) No. 2580/2001 of 27 December 2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism (hereinafter "EU Regulation" adopted for the implementation of resolution 1373 (2001)) is directly applicable in Slovenia.

For the implementation of the above Regulation and on the basis of the national Restrictive Measures Act, Slovenia adopted the Decree concerning restrictive measures for certain persons and entities with a view to combating terrorism, which stipulates that persons are obliged to inform the Ministry of Foreign Affairs of any attempt to act contrary to the prohibitions laid down in the Regulation, as well as of any measure taken for the implementation of its provisions.

III. Global and regional activities

Slovenia, together with the United States and the German Federal Office of Economics and Export Control Agency (BAFA), on behalf of the EU, co-hosted the thirteenth International Conference on Export Control in Portorož from 7 to 9 May 2012. The Conference brought together around 250 participants from more than 80 countries, international organizations, industry, academia and non-governmental organizations. The Conference focused on international partnerships, including the outreach to the industry, inter-agency management and international cooperation. The Export Control and Related Border Security Assistance (EXBS) programme is the United States Government initiative to help other countries improve their export control systems designed to help prevent the proliferation of weapons of mass destruction, their missile delivery systems, conventional weapons and related items by assisting foreign governments to establish and implement effective export control systems that meet international standards.

As part of the EXBS programme, Slovenia assists Bosnia and Herzegovina in capacity-building, focusing on dual-use goods.

The Nuclear Safety Administration provides, through International Atomic Energy Agency (IAEA) technical cooperation, training courses on nuclear safety and security for both the region and the IAEA fellows from different developing countries.

In 2010, the IAEA mission (IPPAS — International Physical Protection Advisory Service) was conveyed in Slovenia. Some suggestions and recommendations were provided to the Government.

Slovenia also participates in EU actions under the umbrella of chemical, biological, radiological and nuclear issues — the EU CBRN Action Plan.

Slovenia organized the Proliferation Security Initiative (PSI) exercise "Adriatic Gate 2007" from 27 to 29 May 2012 at the Port of Koper. The exercise verified the operation of Slovenian authorities by simulating an interception of suspicious (container) cargo containing chemical or nuclear materials needed for making WMD. Representatives from Bosnia and Herzegovina, Montenegro, Croatia and the United States actively participated in the exercise, including a number of observers.

In June 2011, in cooperation with the Federal Bureau of Investigation, the United States Department of Energy and the Slovenian Police Crime Investigation Directorate and Customs, the joint training "Radiological, detection investigative techniques" was organized.

In September 2010, the Slovenian Customs and Police participated in the United States-sponsored train-the-trainers programme "Recognition of WMD".

In October 2010, in cooperation with the Jožef Stefan Institute, in Ljubljana, a special training on radiological safety standards was organized.

A special operative investigation working group in the field of radiological awareness has been established for more efficient prevention, detection and investigation of certain WMD threats.

Enclosure

Article 108 (Terrorism) stipulates:

(1) Whosoever, with the intention to destroy or severely jeopardise the constitutional, social or political foundations of the Republic of Slovenia or another country or international organisation, to arouse fright among the population or to force the Government of the Republic of Slovenia or another country or international organisation to perform or stop performing something, to perform or threaten to perform one or more of the following actions:

- Assault on life or body or human rights and freedoms;
- Taking hostages;
- Considerable destruction of state or public buildings or representations of foreign states, transport system, infrastructure, information system, secured platforms located on the continental shelf, public place or private property;
- Hijacking of an aircraft, ship or public transport;
- Production, possession, purchase, transport, supply or use of weapons, explosives, nuclear, biological or chemical weapons;
- Research and development of nuclear, biological or chemical weapons;
- Endangering security by releasing hazardous substances or causing fires, floods or explosions;
- Disturbance or termination of the supply of water, electrical energy or other basic natural resources that could endanger human life;

shall be sentenced to imprisonment for between three and fifteen years.

(2) Whosoever wants to achieve the purpose referred to in the previous paragraph by using or threatening to use nuclear or any other radioactive substance or device, by damaging a nuclear facility by releasing radioactive substance or enabling its release, or who, by threatening or using force, demands nuclear or any other radioactive substance, device or facility, shall be sentenced to imprisonment of up to fifteen years.

(3) Whosoever prepares or assists in the preparation of criminal offences referred to in the previous paragraphs by illegally obtaining the required means to commit these criminal offences or, through blackmail, prepares someone else to participate in these criminal offences, or whosoever falsifies official or public documents required to commit these criminal offences, shall be sentenced to imprisonment of between one and eight years.

(4) If the act under paragraphs 1 or 2 results in the death of one or more persons, the perpetrator shall be sentenced to imprisonment of between eight and fifteen years.

(5) If the perpetrator, in committing the offences under paragraphs 1 or 2 of this Article, intentionally takes the life of one or more persons, he shall be sentenced to imprisonment of at least fifteen years.

(6) If the act under paragraphs 1 or 2 of this Article was committed by a criminal organisation or group which has the intention to commit criminal offences

(hereinafter: terrorist organisation or group) specified in these paragraphs, it shall be sentenced to imprisonment of between eight and fifteen years.

(7) Whosoever participates in a terrorist organisation or group which has the intention to commit criminal offences under paragraphs 1, 2, 4 or 5 of this Article shall be sentenced to imprisonment of no more than eight years.

(8) Any person who establishes or leads the organisation referred to in the previous paragraph shall be sentenced to imprisonment of at least fifteen years.

Article 109 (Financing of Terrorist Activities) stipulates:

(1) Whosoever provides or collects money or property in order to partly or wholly finance the committing of offences under Article 108 of this Criminal Code shall be sentenced to imprisonment of between one and ten years.

(2) Whosoever commits an offence from the preceding paragraph shall be subject to the same penalty, even if the money or property provided or collected was not used for committing the criminal offences specified in the preceding paragraph.

(3) If an offence under the preceding paragraphs was committed within a terrorist organisation or group committing terrorist acts, the perpetrator shall be sentenced to imprisonment of between three and fifteen years.

(4) Money and property obtained under the preceding paragraphs shall be seized.

Article 110 (Incitement and Public Glorification of Terrorist Activities) stipulates:

(1) Whosoever incites the commission of criminal offences under Article 108 of this Criminal Code and therefore propagates messages or makes them available to other persons in some other manner with the intention to promote terrorist criminal offences and thus causes danger that one or more such criminal offences will be committed shall be sentenced to imprisonment of between one and ten years.

(2) Whosoever directly or indirectly publicly glorifies or advocates criminal offences under Article 108 or the criminal offence referred to in the preceding paragraph, with the purpose under the preceding paragraph, by propagating messages or making them available to the public and therefore causes danger that one or more such criminal offences will be committed, shall be punished in the same manner.

(3) Prosecution for criminal offences under the preceding paragraphs shall be initiated with the permission of the Minister of Justice.

Article 111 (Recruitment and Training for Terrorist Activities) stipulates:

(1) Whoever recruits for terrorist activities by encouraging another person to commit criminal offences under Article 108 of this Criminal Code, or to participate in the order of such terrorist acts, or to join a terrorist organisation or group to commit terrorist acts, which this criminal organisation or group commits, shall be sentenced to imprisonment of between one and ten years.

(2) Whosoever trains others for criminal offences under Article 108 of this Criminal Code by providing instructions to manufacture and use explosives, firearms or other weapons, harmful or hazardous substances, trains them for other special methods or in the use of technology to perform or participate in a terrorist act, shall be punished in the same manner.